

WILLIAM WALLER.

[To accompany bill H. R. No. 436.]

MAY 25, 1842.

Mr. MOORE, from the Committee on Private Land Claims, submitted the following:

REPORT:

*The Committee on Private Land Claims, to whom was referred the memorial of William Waller, praying Congress to relinquish to him the interest of the United States in certain land therein specified, do report:*

That a certain tract of land, known as Sizemore's ferry tract, situate in Monroe county, State of Alabama, being fractional section seventeen, township five, range four east, lying on the left bank of Alabama river, containing 550 acres, and also a small part of said fractional section lying on the right bank of said river, supposed to contain two acres, were claimed and possessed by Arthur Sizemore, as a reservation under the treaty of Fort Jackson.

By an act of Congress, approved May 29, 1830, the said premises were relinquished and vested in said Sizemore and his heirs, under a proviso that Sizemore and his family should remove to his tribe west of the Mississippi, but not at the expense of the United States, or to have any allowance of land when removed there, and under a further provision that no deed of Sizemore for said premises was to be valid until it had been submitted to one of the district attorneys for the district of Alabama for his approbation, and who, on examination into the facts, and being satisfied that the sale was fair and the consideration adequate, was to endorse his approval on the deed, and the same thereupon to become valid; that, by a deed dated December 9, 1831, said Sizemore conveyed said premises to said William Waller for the price of 1,500 dollars, and that said sale was duly examined and approved by John Elliot, Esq., then the district attorney for the southern district of Alabama, and his approval endorsed on said deed on December 13, 1831; that the committee are fully satisfied of the foregoing facts, but have no evidence that Sizemore and his family have removed, or why they have not, except that it is alleged in the memorial that Sizemore died soon after giving the deed, and that only a part of his family have removed; and the committee understood that a patent for said premises is refused to be issued to Waller, because said Sizemore and his family were not removed according to said provision.

And the memorialist, Waller, prays Congress to release to him all right of the United States to said premises, he having applied therefor to the last Congress, at whose last session a bill to that effect was reported in the House, but not enacted.

On these facts, the committee are of opinion that the prayer of the memorial should be granted, because it may be doubted whether the unperformed provision to remove, &c., meant any thing more than to exempt the United States from the expense of the removal and to allow lands to Sizemore and his family after their removal; and, if it did, it is still doubtful whether such a provision could prevent the vesting of a perfect title, or defeat it after it had vested; and because, if such a provision does prevent or defeat this title, it would be unjust in the United States to exact it against a purchaser in good faith and for full value, who had no power to perform it, and who could only pay his money, and then trust to the honor of an Indian, or the justice of his country: and, the money being paid and the Indian being dead, or dishonored, or both, the committee do accordingly herewith report a bill for the relief of the said William Waller.